

SOLICITATION AMENDMENT No. 2 (TWO)



ARIZONA SCHOOL FACILITIES BOARD
Procurement Group
1700 West Washington, Suite 230
Phoenix, Arizona 85007
Phone: (602) 364-0538

SOLICITATION NO. SF06-0004

An **original** signed copy of this amendment shall be received by the SFB Procurement Office with your offer or prior to the Solicitation due date and time.

Added language is noted in **BOLD** face and **UPPERCASE**. Deleted language or characters are shown as strikethrough (~~strikethrough~~). This Solicitation is amended as follows:

1. OFFER DUE DATE and TIME

The OFFER DUE DATE and TIME as stated on the cover sheet is hereby change to read:

"OFFER DUE DATE: ~~June 16, 2006~~ **JUNE 20, 2006** AT 3:00 P.M. MST (Local Time)

In addition, Section 5., Special Instructions to Offerors, Subsection 5.3.12 "Copies" is hereby changed to read:

"5.3.12 Copies

The original and six (6) copies of the offer are required. Copies will be packaged in such a manner that the outer wrapping clearly indicates the offeror's name and address, and the following information:

Request for Proposals No.: SF06-0004

FIRE ALARM AND SMOKE DETECTION SYSTEMS - GUSHD

To be opened ~~June 16, 2006~~ JUNE 20, 2006 - 3:00 P.M., Local Time

A. Exhibit 6.4, Article 2, Section 2.3, the following subsections are added to read:

"2.5.8 "DISTRICT" SHALL MEAN THE GLENDALE UNION HIGH SCHOOL DISTRICT OR "GUHSD" AND THE EMPLOYEES OR REPRESENTATIVES OF THE ASSIGNED TO ASSIST IN THE COMPLETION OF THIS PROJECT.

2.5.9 "DESIGNER" SHALL MEAN THE INDIVIDUAL OR FIRM THAT IS HIRED BY THE CONTRACTOR TO COMPLETE THE DESIGN PHASE SERVICES INCLUDING ALL NECESSARY SCHEMATICS, DRAWINGS, PLANS OR CONSTRUCTION DOCUMENTS RELATED TO THIS PROJECT."

ALL OTHER PROVISIONS OF THE SOLICITATION SHALL REMAIN IN THEIR ENTIRETY.

Offeror hereby acknowledges receipt and understanding of the above amendment.

Signature Date

Typed Name and Title

Company Name

Address

City State Zip

The above referenced Solicitation Amendment is hereby executed this 16th Day of February, 2000, at Phoenix, Arizona.

Dennis Kirkland

PROCUREMENT OFFICER

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B. Exhibit 6.4, DESIGN-BUILD GENERAL CONDITIONS, Article 3, sections or subsections are hereby modified as follows:

B.1 Section 3.0, and listed subsections are modified to read:

"3.0 CONTRACTOR'S RESPONSIBILITIES

The Contractor shall be responsible for procuring the design, **PERMITS** and for the construction..."

"3.1.3 PRELIMINARY ESTIMATE

...the Contractor shall prepare for the SFB's ~~and's~~ written approval a preliminary..."

"3.1.4 SCHEMATIC DESIGN DOCUMENTS The Contractor shall submit for the SFB's ~~and SFB's~~ written approval Schematic Design Documents..."

B.2 The next to last sentence of subsection 3.1.5, DESIGN DEVELOPMENT DOCUMENTS, is changed to read:

"Up to ~~six (6)~~ **TWO (2)** sets of these documents shall..."

B.3 The last sentence of Subsection 3.1.6, CONSTRUCTION DOCUMENTS, is change to read:

"Up to ~~six (6)~~ **TWO (2)** sets of these documents shall be furnished..."

B.4 Subsection 3.2.2, is hereby DELETED in its entirety.

~~**3.2.2** If a GMP is not established, all references in this Agreement to the GMP shall not be applicable, and the parties shall proceed on the basis of reimbursement as provided in Article 7 and 8. In the absence of a GMP, however, the parties may establish a date of Substantial Completion.~~

B.5 Subsection 3.3.10 is hereby changed to read:

"3.3.10 At all times the Contractor shall maintain the site of the Work free from debris and waste materials resulting from the Work. **IN ADDITION, IF THE SITE IS OWNER OCCUPIED THE CONTRACTOR SHALL SECURE THE SITE AND MONITOR THE SITE IN COMPLIANCE TO LOCAL BUILDING CODES, INCLUDING FIRE SYSTEM MONITORING, IN THE EVENT THE FIRE SYSTEM IS TEMPORARILY DE-ACTIVATED.** At the completion of the Work, the Contactor shall remove from the premises all construction equipment, tools, surplus materials, waste materials and debris."

B.6 Subsection 3.4 is hereby changed to read:

"3.4 HAZARDOUS MATERIAL

A Hazardous Material is any substance or material identified now or in the future as hazardous under any federal, state or local law or regulation, or any other substance or material which may be considered hazardous or otherwise subject to statutory or regulatory requirements governing handling, disposal and /or clean-up. ~~The Contractor shall not be obligated to commence or continue Work until any known or suspected Hazardous Material discovered at the Project site has been removed, rendered or determined to be harmless by the SFB as certified by an independent testing laboratory and approved by the appropriate government agency~~ **THE**

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CONTRACTOR SHALL PERFORM PREPARATORY WORK TO INSPECT AND IDENTIFY ANY HAZARDOUS MATERIALS THAT MAY AFFECT THE PROJECT WORK AND IMMEDIATELY REPORT ANY FINDINGS OF HAZARDOUS MATERIALS TO THE PROJECT MANAGER AND, IF REQUIRED, THE GOVERNMENT AGENCY WITH JURISDICTION.

B.7 Subsection 3.4.6, RESERVED., is hereby replaced to read:

"3.46 PRELIMINARY HAZARDOUS MATERIALS INVESTIGATION

THE CONTRACTOR SHALL CONDUCT A PRELIMINARY HAZARDOUS MATERIALS INVESTIGATION BEFORE DEMOLITION OR PRELIMINARY CONSTRUCTION WORK COMMENCES FOR THE PURPOSE OF IDENTIFYING SUSPECTED HAZARDOUS MATERIALS AND NOTIFYING THE STATE FOR ADDITIONAL INVESTIGATION BY THE STATE'S HAZARDOUS REMOVAL CONTRACTOR(S). THIS IS TO MINIMIZE DELAYS TO THE PROJECT."

B.8 Section 3.5, LIQUIDATED DAMAGES is hereby added to read:

"3.5 LIQUIDATED DAMAGES

SHOULD THE CONTRACTOR FAIL TO DELIVER THE SUPPLIES OR PERFORM THE SERVICE WITHIN THE TIME SPECIFIED IN THIS CONTRACT, OR ANY EXTENSION THEREOF, THE ACTUAL DAMAGES TO THE STATE FOR THE DELAY WILL BE DIFFICULT OR IMPOSSIBLE TO DETERMINE. THEREFORE, IN LIEU OF ACTUAL DAMAGES, THE CONTRACTOR SHALL PAY TO THE STATE AS FIXED, AGREED AND LIQUIDATED DAMAGES FOR EACH CALENDAR DAY OF DELAY, THE AMOUNT OF \$250.00, FOR WORK THAT IS NOT COMPLETED BY THE DATE OF SUBSTANTIAL COMPLETION. IN ADDITION, IN LIEU OF ACTUAL DAMAGES, THE CONTRACTOR SHALL PAY TO THE STATE AS FIXED, AGREED AND LIQUIDATED DAMAGES FOR EACH CALENDAR DAY OF DELAY, THE AMOUNT OF \$500.00, FOR WORK THAT IS NOT COMPLETED BETWEEN THE ACTUAL DATE OF SUBSTANTIAL COMPLETION AND THE ACTUAL DATE OF FINAL COMPLETION. THE STATE MAY TERMINATE THIS CONTRACT IN WHOLE OR PART AS PROVIDED IN THE "DEFAULT" PROVISION. IN THAT EVENT, THE CONTRACTOR SHALL BE LIABLE FOR SUCH LIQUIDATED DAMAGES ACCRUING UNTIL SUCH TIME AS THE STATE MAY REASONABLY OBTAIN THE DELIVERY OR PERFORMANCE OF SIMILAR SUPPLIES OR SERVICES, RESPECTIVELY. THE STATE'S RIGHT TO LIQUIDATED DAMAGES FOR DELAY SHALL BE IN ADDITION TO ANY OTHER REMEDIES AVAILABLE TO THE STATE ARISING FROM CONTRACTOR'S BREACH. THE STATE SHALL HAVE THE RIGHT TO OFF-SET ANY AMOUNTS OWED TO THE CONTRACTOR BY THE LIQUIDATED DAMAGE AMOUNT.

3.5.1 FOR THE PURPOSES OF LIQUIDATED DAMAGES, THE DATE OF FINAL COMPLETION SHALL BE THE DATE AS STATED IN THE ARCHITECT'S / ENGINEER'S LETTER TO THE SFB THAT THE PROJECT IS FINALLY COMPLETE."

B.9 The Subsection numbered 3.7.21, that immediately preceeds Article 4, of Exhibit 6.4 is hereby renumbered and shall read as originally stated, unchanged:

"3.7.22 Design, coordination, management, expediting and other services supporting the procurement of materials to be obtained, or work to be performed, by the SFB, including but not limited to telephone

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systems, computer wiring networks, sound systems, alarms, security systems and other specialty systems which are not a part of this Agreement."

C. Exhibit 6.4, DESIGN BUILD GENERAL CONDITIONS, Article 4, sections and subsections are modified as follows:

C.1 Subsections 4.1; 4.1.1; 4.1.2; 4.1.3; 4.2; and 4.2.1 are all hereby DELETED in their entirety.

4.1 INFORMATION AND SERVICES PROVIDED BY SFB

The SFB shall provide full information in a timely manner regarding requirements for the Project, including the Owner's Program and other relevant information.

4.1.1 The SFB shall provide:

4.1.2 necessary information describing the physical characteristics of the site, including surveys, site evaluations, legal descriptions, existing conditions, subsurface and environmental studies, reports and investigations; as available

4.1.3 hazardous materials and asbestos inspection, testing and remediation services during construction as required by law or as mutually agreed within approved change orders; and

4.2 DISTRICT RESPONSIBILITIES DURING DESIGN PHASE

4.2.1 The District shall provide the Program at the inception of the Design Phase and shall review and timely approve schedules, estimates, Schematic Design Document, Design Development Documents and Construction Documents furnished during the Design Phase as set forth in Paragraph 3.2.

D. Exhibit 6.4, DESIGN-BUILD GENERAL CONDITIONS, Article 7, sections and subsections are modified as follows:

D.1 Subsection 7.1.2, APPLICATIONS FOR PAYMENT shall be added to read:

"7.1.2 APPLICATIONS FOR PAYMENT

APPLICATIONS FOR PAYMENT MAY BE SUBMITTED MONTHLY FOR APPROVAL BY THE SFB AND PAYMENT ACCORDING TO THE TERMS AND CONDITIONS OF THE CONTRACT. THE CONTRACTOR SHALL ALSO SUBMIT REQUESTS FOR COMPENSATION BASED UPON APPROVED CHANGE ORDER REQUESTS WITHIN THE CONTRACTOR'S APPLICATIONS FOR PAYMENT, ONLY AFTER WORK COVERED BY CHANGE ORDER HAS BEEN COMPLETED, INSPECTED AS REQUIRED BY LOCAL BUILDING CODES, AND APPROVED BY THE PROJECT MANAGER."

E. Exhibit 6.4, DESIGN-BUILD GENERAL CONDITIONS, Article 10, sections and subsections are modified as follows:

E.1 **"10.1.1** Within thirty (30) days after receipt of each monthly Application for Payment, the SFB shall pay directly to the contractor, **AFTER SUCH PAYMENT IS APPROVED BY THE PROJECT MANAGER IN THE AMOUNT** for which Application for Payment is made, less amounts previously paid by the SFB."

E.2 The Subsection 10.1.5, *et seq.*, are hereby added to read:

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- "10.1.5 RETENTION SHALL BE IN ACCORDANCE WITH ARIZONA REVISED STATUTES, A.R.S. § 41-2576.**
- 10.1.5.1 THE SFB SHALL MAKE PROGRESS PAYMENTS ON THE CONTRACT MONTHLY AS WORK PROGRESSES. PAYMENTS SHALL BE BASED UPON ESTIMATES OF WORK COMPLETED THAT ARE APPROVED BY THE SFB. A PROGRESS PAYMENT SHALL NOT BE CONSIDERED ACCEPTANCE OR APPROVAL OF ANY WORK OR WAIVER OF ANY DEFECTS THEREIN.**
- 10.1.5.2 THE SFB SHALL RESERVE AS RETAINAGE FROM ANY PROGRESS PAYMENT ON A CONTRACT AN AMOUNT NOT TO EXCEED TEN (10) PERCENT OF THE PAYMENT. AS WORK PROGRESSES, THE SFB MAY REDUCE THE AMOUNT OF THE RETAINAGE AND THE SFB MAY ELIMINATE RETAINAGE ON ANY REMAINING MONTHLY CONTRACT PAYMENTS AFTER 50 PERCENT OF THE WORK UNDER THE CONTRACT IS COMPLETED IF, IN THE SFB'S OPINION, SUCH WORK IS PROGRESSING SATISFACTORILY. ELIMINATION OR REDUCTION OF RETAINAGE SHALL BE ALLOWED ONLY UPON WRITTEN APPLICATION BY THE CONTRACTOR, WHICH APPLICATION SHALL INCLUDE WRITTEN APPROVAL OF THE CONTRACTOR'S SURETY; EXCEPT THAT WHEN THE CONTRACT WORK IS 97-1/2 PERCENT COMPLETED THE SFB MAY, AT ITS DISCRETION AND WITHOUT APPLICATION BY THE CONTRACTOR, REDUCE THE RETAINED AMOUNT TO 100 PERCENT OF THE VALUE OF THE CONTRACT WORK REMAINING TO BE DONE.**
- 10.1.5.3 THE RETAINAGE HELD BY THE SFB SHALL BE INCLUDED IN AND PAID TO THE CONTRACTOR AS PART OF THE FINAL PAYMENT OF THE CONTRACT PRICE. THE CONTRACTOR SHALL NOTIFY THE SFB IN WRITING WHEN THE CONTRACTOR CONSIDERS THE WORK COMPLETE AND THE SFB SHALL, WITHIN 15 DAYS AFTER RECEIVING THE WRITTEN NOTICE, EITHER ACCEPT THE WORK OR NOTIFY THE CONTRACTOR OF WORK YET TO BE PERFORMED ON THE CONTRACT. IF THE SFB DOES NOT WITHIN THE TIME ALLOWED, NOTIFY THE CONTRACTOR OF WORK YET TO BE PERFORMED TO FULFILL CONTRACTUAL OBLIGATIONS, THE CONTRACTOR SHALL BE ENTITLED TO FULL REPAYMENT OF THE RETAINAGE AMOUNT ACCORDING TO THE PAYMENT TERMS OF THE CONTRACT.**
- 10.1.5.4 IN ACCORDANCE WITH THE PROVISIONS OF A.R.S. § 41-2576, THE SFB MAY REDUCE THE AMOUNT OF THE RETAINAGE IF THE CONTRACTOR NOTIFIES THE SFB THAT THE CONTRACTOR HAS DEPOSITED IN A BANK, SAVINGS BANK, TRUST COMPANY OR SAVINGS ASSOCIATION, IN A MANNER AUTHORIZED BY THE SFB, BONDS AND SECURITIES OF EQUAL VALUE OF A KIND APPROVED BY THE SFB.**
- A. BILLS, CERTIFICATES, NOTES OR BONDS OF THE UNITED STATES**
 - B. OTHER OBLIGATIONS OF THE UNITED STATES OR ITS AGENCIES**
 - C. OBLIGATIONS OF ANY CORPORATION WHOLLY OWNED BY THE FEDERAL GOVERNMENT**
 - D. INDEBTEDNESS OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION**
 - E. GENERAL OBLIGATION BONDS OF THE STATE OF ARIZONA OR ANY POLITICAL SUBDIVISION THEREOF**
 - F. TIME CERTIFICATES OF DEPOSIT OR SAVINGS ACCOUNT PASSBOOKS ISSUED BY A COMMERCIAL BANK, SAVINGS AND LOAN ASSOCIATION, OR MUTUAL SAVINGS BANK, DULY AUTHORIZED TO DO BUSINESS IN ARIZONA**
 - G. CORPORATE BONDS RATED "A" OR BETTER BY A RECOGNIZED RATING SERVICE**
 - H. GENERAL OBLIGATION IMPROVEMENT WARRANTS ISSUED.**

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I. IRREVOCABLE LETTERS OF CREDIT FROM A BANK DOING BANKING BUSINESS IN ARIZONA.

- 10.1.5.5** WHEN THE ACCOUNT IS ESTABLISHED PROPER INSTRUMENTS SHALL BE FURNISHED TO THE BANK, SAVINGS BANK, TRUST COMPANY OR SAVINGS ASSOCIATION TO PROHIBIT WITHDRAWAL OR TRANSFER OF THE FUNDS IN THE ACCOUNT EXCEPT UPON WRITTEN INSTRUCTIONS AND AUTHORIZATION OF THE SFB AND TO ENABLE THE SFB TO CLOSE THE ACCOUNT IF IN THE JUDGMENT OF THE SFB THE CONTRACTOR HAS NOT FULFILLED THE CONTRACT OBLIGATIONS.
- 10.1.5.6** THE BANK, SAVINGS BANK, TRUST COMPANY OR SAVINGS ASSOCIATION WILL ISSUE TO THE SFB A RECEIPT ACKNOWLEDGING THE DEPOSIT AND, ON THE INITIAL RECEIPT, DESCRIBING THE ACCOUNT, THE PROVISION FOR INTEREST, THE NAME OF THE CONTRACTOR AND THE FULL NAME UNDER WHICH THE ACCOUNT IS ESTABLISHED.
- 10.1.5.7** THE AMOUNT DEPOSITED AND ACCRUED INTEREST WILL BE RELEASED BY THE BANK, SAVINGS BANK, TRUST COMPANY OR SAVINGS ASSOCIATION ONLY UPON THE WRITTEN INSTRUCTIONS BY THE SFB.
- 10.1.5.8** IF THE SFB INCURS ADDITIONAL COSTS AS A RESULT OF THE EXERCISE OF EITHER OF THE LAST TWO OPTIONS FOR RETAINAGE DESCRIBED ABOVE THE SFB MAY RECOVER SUCH COSTS FROM THE CONTRACTOR BY A REDUCTION OF THE FINAL PAYMENT. AS WORK ON THE CONTRACT PROGRESSES THE SFB SHALL, UPON DEMAND, INFORM THE CONTRACTOR OF ALL ACCRUED COSTS.
- 10.2** **FINAL PAYMENT**
UPON RECEIPT OF WRITTEN NOTICE THAT THE WORK IS READY FOR FINAL INSPECTION AND ACCEPTANCE AND UPON RECEIPT OF A FINAL APPLICATION FOR PAYMENT, THE ARCHITECT / ENGINEER OR THE PROJECT MANAGER WILL PROMPTLY MAKE SUCH INSPECTION AND, WHEN THEY FIND THE WORK ACCEPTABLE UNDER THE CONTRACT DOCUMENTS AND THE CONTRACT FULLY PERFORMED, THEY WILL JOINTLY ISSUE A FINAL CERTIFICATE FOR PAYMENT STATING THAT TO THE BEST OF THEIR KNOWLEDGE, INFORMATION AND BELIEF, AND ON THE BASIS OF THEIR OBSERVATIONS AND INSPECTIONS, THE WORK HAS BEEN COMPLETED IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE CONTRACT DOCUMENTS AND THAT THE ENTIRE BALANCE FOUND TO BE DUE THE CONTRACTOR, AND NOTED IN SAID FINAL CERTIFICATE, IS DUE AND PAYABLE.
- 10.2.1** NEITHER FINAL PAYMENT NOR THE REMAINING RETAINED PERCENTAGE SHALL BECOME DUE UNTIL THE WORK IS FREE AND CLEAR OF ANY AND ALL LIENS, AND THE CONTRACTOR SUBMITS TO THE PROJECT MANAGER (1) AN AFFIDAVIT THAT ALL PAYROLLS, BILLS FOR MATERIALS AND EQUIPMENT, AND OTHER INDEBTEDNESS CONNECTED WITH THE WORK FOR WHICH THE SFB MIGHT IN ANY WAY BE RESPONSIBLE, HAVE BEEN PAID OR OTHERWISE SATISFIED, (2) CONSENT OF SURETY, IF ANY, TO FINAL PAYMENT, (3) A PROPERLY COMPLETED PAYROLL REPORT FORM FOR THE CONTRACTOR, SUBCONTRACTOR AND SUB-SUBCONTRACTOR EVIDENCING PROJECT FINAL PAYROLL BY WORKER'S COMPENSATION CODES, (4) A CERTIFICATE EVIDENCING THAT INSURANCE REQUIRED BY THE CONTRACT DOCUMENTS TO REMAIN IN FORCE AFTER FINAL PAYMENT IS CURRENTLY IN EFFECT AND WILL NOT BE CANCELLED OR ALLOWED TO EXPIRE UNTIL AT LEAST 30 DAYS PRIOR WRITTEN NOTICE HAS BEEN GIVEN TO THE OWNER, (5) A WRITTEN STATEMENT THAT THE CONTRACTOR KNOWS OF NO SUBSTANTIAL REASON THAT THE INSURANCE WILL NOT BE RENEWABLE TO COVER THE PERIOD REQUIRED BY THE CONTRACT DOCUMENTS,

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AND (6) IF REQUIRED BY THE PROJECT MANAGER, OTHER DATA ESTABLISHING PAYMENT OR SATISFACTION OF ALL SUCH OBLIGATIONS, SUCH AS RECEIPTS, RELEASES AND WAIVERS OF LIENS ARISING OUT OF THE CONTRACT, TO THE EXTENT AND IN SUCH FORM AS MAY BE DESIGNATED BY THE PROJECT MANAGER. IF ANY SUBCONTRACTOR REFUSES TO FURNISH A RELEASE OR WAIVER REQUIRED BY THE PROJECT MANAGER, THE CONTRACTOR MAY FURNISH A BOND SATISFACTORY TO THE PROJECT MANAGER TO INDEMNIFY THE OWNER AGAINST ANY LOSS. IF ANY SUCH LIEN OR CLAIM REMAINS UNSATISFIED AFTER ALL PAYMENTS ARE MADE, THE CONTRACTOR SHALL REFUND TO THE OWNER ALL MONIES THAT THE OWNER MAY BE COMPELLED TO PAY IN DISCHARGING SUCH LIEN OR CLAIM, INCLUDING ALL COSTS AND ATTORNEYS' FEES. THE OWNER MAY WITHHOLD FROM FINAL PAYMENT ANY SUM THAT THE OWNER HAS REASON TO BELIEVE MAY BE NEEDED TO SATISFY ANY LIEN, CLAIM OR THREAT OF LIEN ARISING OUT OF THE WORK. THE OWNER MAY DEDUCT FROM FINAL PAYMENT AN AMOUNT EQUAL TO ANY COSTS, EXPENSES AND ATTORNEYS' FEES INCURRED BY THE OWNER OR THE PROJECT MANAGER IN REMOVING OR DISCHARGING ANY LIENS ARISING OUT OF THE WORK. PAYMENT OF THE RETAINED PERCENTAGE SHALL BE IN ACCORDANCE WITH AND SUBJECT TO THE CONDITIONS AS SET FORTH IN ARIZONA REVISED STATUTES, TITLE 41, CHAPTER 23, ARTICLE 5. (A.R.S. § 41-2576).

10.2.3 IF SFB, AFTER A SUBSTANTIAL PORTION OF THE WORK HAS BEEN COMPLETED, FINDS THAT AN UNREASONABLE DELAY WILL OCCUR IN THE COMPLETION OF THE REMAINING PORTION OF THE CONTRACT FOR ANY REASON NOT THE RESULT OF A BREACH THEREOF, IT MAY, IF THE CONTRACTOR AGREES, DELETE FROM THE CONTRACT THE REMAINING WORK AND ACCEPT AS FINAL THE IMPROVEMENT AT THE STAGE OF COMPLETION THEN ATTAINED AND MAY MAKE PAYMENT IN PROPORTION TO THE AMOUNT OF WORK ACCOMPLISHED.

10.2.4 THE MAKING OF FINAL PAYMENT SHALL CONSTITUTE A WAIVER OF ALL CLAIMS BY THE SFB AGAINST THE CONTRACTOR EXCEPT THOSE ARISING FROM:

- A. UNSETTLED LIENS OR CLAIMS AGAINST THE SFB, OR THEIR EMPLOYEES, AGENTS OR REPRESENTATIVES,
- B. FAULTY OR DEFECTIVE WORK APPEARING AFTER SUBSTANTIAL COMPLETION OR LATENT DEFECTS,
- C. FAILURE OF THE WORK TO COMPLY WITH THE REQUIREMENTS OF THE CONTRACT DOCUMENTS,
- D. ANY WARRANTIES CONTAINED IN, IMPLIED INTO OR REQUIRED BY THE CONTRACT DOCUMENTS, OR
- E. DAMAGES INCURRED BY THE DISTRICT OR SFB RESULTING FROM LAW SUITS BROUGHT AGAINST THE DISTRICT, THE ARCHITECT / ENGINEER OR THE SFB OR THEIR AGENTS, EMPLOYEES OR REPRESENTATIVES BECAUSE OF FAILURES OR ACTIONS ON THE PART OF THE CONTRACTOR, HIS SUBCONTRACTORS, SUB-SUBCONTRACTORS, OR ANY OF THEIR EMPLOYEES, AGENTS OR REPRESENTATIVES.

10.2.5 THE ACCEPTANCE OF FINAL PAYMENT SHALL CONSTITUTE A WAIVER OF ALL CLAIMS BY THE CONTRACTOR, SUBCONTRACTOR AND SUB-SUBCONTRACTOR EXCEPT THOSE PREVIOUSLY MADE IN WRITING AND IDENTIFIED BY THE CONTRACTOR AS UNSETTLED AT THE TIME OF THE FINAL APPLICATION FOR PAYMENT.

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F. ARTICLE 12. shall be deleted and replaced to read as follows:

"ARTICLE 12 (revised 6-2006)

PROTECTION OF PERSONS AND PROPERTY

12.1 SAFETY PRECAUTIONS AND PROGRAMS

12.1.1 The SFB, the insurance provider or their agents employees or representatives, are not responsible for the means, methods, techniques, sequences or procedures utilized by the Contractor, or for safety precautions and programs in connection with the Work. The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work.

12.1.2 Any notice given to the Contractor by the SFB or insurance provider of a safety or property protection violation will not: (1) relieve the Contractor of sole and complete responsibility for the violation and the correction thereof, or of sole liability for the consequences of said provider to inspect or review Contractor's safety program or precautions or to enforce Contractor's compliance with the requirements of this Article 12; and (3) impose any continuing obligation upon the SFB or the insurance provider to provide such notice to Contractor or any other person or entity.

12.2 SAFETY OF PERSONS AND PROPERTY

12.2.1 The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to:

- 1** All employees on the Work and all other persons who may be affected thereby;
- 2** The Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the Contractor or the Contractor's Subcontractors, regardless of tier; and
- 3** Other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, utilities not designated for removal, relocation or replacement in the course of construction.
- 4** The Contractor's safety precautions shall fully comply with the insurance provider's minimum safety guidelines. Compliance with the minimum safety guidelines does not relieve the Contractor of any other contractual or legal duty to reasonably protect against the above defined damage, injury or loss. The contractor is solely responsible for implementation of the minimum safety guidelines and all other project safety requirements.

12.2.2 The Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss.

12.2.3 The Contractor shall erect and maintain, as required by existing conditions and progress of the Work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying the School SFB and users of adjacent utilities.

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12.2.4 When the use or storage of explosives or other hazardous materials or equipment is necessary for the execution of the Work, the Contractor shall exercise the utmost care and shall carry on such activities under the supervision of properly qualified personnel.

12.2.5 The Contractor shall promptly remedy all damage or loss to any property referred to in Clauses 12.2.1.2 and 12.2.1.3 caused in whole or in part by the Contractor, any Subcontractor, and Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable and for which the Contractor is responsible under Clause 12.2.1.2 and 12.2.1.3, except damage or loss caused by the acts or omissions of the SFB or anyone directly or indirectly employed by it, or by anyone for whose acts the SFB may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to his obligations under Paragraph 3.4.6.

12.2.6 The Contractor shall designate a responsible member of his organization at the sites whose duty shall be the prevention of accidents and monitoring of the Work to insure compliance with all applicable laws, ordinances, rules, regulations and lawful orders of public authority bearing on the safety of persons or protection of property. This person shall be the Contractor's Superintendent unless otherwise designated by the Contractor in writing to the SFB.

12.3 EMERGENCIES

In any emergency affecting the safety of persons property, the Contractor shall act, at his discretion, to prevent threatened damage, injury or loss. Any additional compensation or extension of time claimed by the Contractor on account of emergency work shall be determined as provided in Article 9 for Changes in the Work."